

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CASEY ROTH,)	
)	No. C05-1322RSL
Plaintiff,)	
v.)	ORDER DENYING PLAINTIFF'S
TULLY'S COFFEE CORPORATION,)	MOTION TO COMPEL
a Washington corporation, and PREMERA)	
BLUE CROSS, a Washington corporation,)	
Defendants.)	

This matter comes before the Court on plaintiff's "Motion to Compel CR 26 Initial Disclosures & Responses to Discovery; Request for Sanctions; and Request for Judicial Oversight of Discovery" (Dkt. #30). The Court held a hearing on the motion on September 29, 2006 and heard from counsel for plaintiff and defendant Tully's Coffee Corporation ("Tully's"). Having reviewed the memoranda, declarations, and exhibits submitted by the parties, the Court finds as follows:

(1) Plaintiff did not make a good faith effort to confer with defendant regarding this discovery dispute before filing his motion. The requirement of Fed. R. Civ. P. 37(a)(2) that "the movant has in good faith conferred or attempted to confer with the person or party failing to make the discovery" and LR 37(a)(2) requiring "a face-to-face meeting or a telephonic conference" is imposed for the benefit of both the Court and the parties and is designed to

1 ensure that only genuine disagreements are brought before the Court. In the circumstances
2 presented here, compliance with the Rules would have involved face-to-face or telephonic
3 conference regarding each of the objections plaintiff has raised to defendant Tully's discovery
4 responses. Defendant's counsel has stated that no meaningful discussion of these issues took
5 place before the motion was filed and the evidence presented by defendant proves this fact. See
6 Dkt. #45 (Third Decl. of David Silke) at ¶¶ 7, 8; Dkt. #31 (Second Declaration of John Barton)
7 Exs., 40, 43, 44. Plaintiff's motion is hereby denied for failure to comply with Fed. R. Civ. P.
8 37(a)(2) and LR 37(a)(2).

9 (2) Plaintiff is not being denied access to Tully's employees through defense counsel's
10 representation of these witnesses. Accordingly, plaintiff's request for an order that "Tully's has
11 willfully obstructed discovery and instructing Tully's to cooperate in discovery" is denied. See
12 Dkt. #30 at 8.

13 (3) Defendant provided adequate responses to plaintiff's interrogatories 3, 4, 9, 10, 12,
14 15-17 and 19. See Motion at 8; Dkt. #31, Ex. 7.

15 (4) Defendant's overbreadth objection to plaintiff's interrogatories 11, 13 and 14
16 requesting information regarding "every time a postage sticker . . . became detached from a letter
17 or package" is valid. See id.

18 (5) Defendant's overbreadth objection to plaintiff's request for production number 11
19 "[f]or all COBRA notices that you sent from 1995 to the present . . . the envelope containing
20 such notice, and the delivery/mailing receipt for such notice" is valid. See id. Defendant has
21 produced the relevant COBRA notices for the period from March 1, 2002 to March 1, 2003. See
22 Dkt. #44 at 10.

23 (6) By producing all documents within its possession, including the relevant COBRA
24 notices for the period from March 1, 2002 to March 1, 2003, defendant has satisfied its
25 discovery obligations under plaintiff's requests for production 1-11. See Response at 6-7.
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1 For all the foregoing reasons, the court DENIES Plaintiff's "Motion to Compel CR 26
2 Initial Disclosures & Responses to Discovery; Request for Sanctions; and Request for Judicial
3 Oversight of Discovery" (Dkt. #30).

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5 DATED this 3rd day of October, 2006.

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8 Robert S. Lasnik
9 United States District Judge
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